IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

Civil Action No. 25-cv-3765

GRIGOR DEPELIAN (alien registration number A 246-068-467),

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the ICE Denver Contract Detention Facility,

ROBERT HAGAN, in his official capacity as Director of the Denver Field Office of United States Immigration and Customs Enforcement, Enforcement and Removal Operations,

KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and

PAMELA JO BONDI, in her official capacity as Attorney General of the United States,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

Introduction

1. Petitioner Grigor Depelian came to the United States in October 2022 seeking safety from the lifelong persecution he had experienced in his native Russia on account of his Armenian ethnicity and the more recent mistreatment he had suffered because of his [redacted]
2. He presented himself at the border to request Asylum, and the Department of Homeland Security (DHS) immediately took him into custody and placed him into full removal proceedings. He was held in a California detention center until December 2022.
3. At that point, DHS released him on a grant of parole. Curiously, the notification DHS gave Mr. Depelian claimed that his release was pursuant to a policy that applied to those found to have a credible fear of persecution or torture even though he was not interviewed by an Asylum officer who could make such a determination.
4. His release was subject to two conditions: he had to pay a bond of $5,000, and he was placed in the United States Immigration and Customs Enforcement's (ICE's) Intensive Supervised Appearance Program (ISAP), which subjected him to strict reporting requirements.
5. Over the next two and a half years, Mr. Depelian established a life for himself in the United States. His wife and two children came to join him, he donated to the cause of Ukraine's defense against Russia's invasion, and though he worked and lived in several states, he scrupulously complied with all his reporting requirements. During this time, he impressed several neighbors and coworkers with his positive outlook, integrity, and generosity.

6. He moved to Colorado in December 2023 and was living in an apartment with his wife and young son (his daughter went to Armenia). He paid his taxes and has never had an encounter with the police. Even so, he was detained near the end of August 2025, when he was told that he needed to come in so that the application used to track him could be updated. But he is the breadwinner of his family, and his son is sick.
7. It is not altogether clear which statute authorizes Mr. Depelian's detention. The government likely considers that he is detained pursuant to Immigration and Nationality Act (INA) § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A) (2024), which mandates the detention of applicants for admission who, when seeking admission into the United States, cannot show clearly and beyond doubt that they are entitled to admission and who are not in expedited removal proceedings. Given that he was released and is well outside the temporal limit that the phrase "seeking admission" imposes, he maintains that he is in fact detained under INA § 236(a)(1), 8 U.S.C. § 1226(a)(1), which governs the detention of those present in the United States pending a decision on whether they are to be removed from the united States and provides for bond hearings in most circumstances. Yet even if he is detained under INA § 236(a)(1), 8 U.S.C. § 1226(a)(1), he is ineligible for a bond hearing before an immigration judge because he has been classified as an "arriving alien." *See* 8 C.F.R. § 1003.19(h)(2)(i)(B). In short, whichever statutory scheme presently governs his detention, he cannot request bond from an immigration judge
8. Mr. Depelian has done nothing to justify the revocation of his release. While the government had wide discretion about how to treat him when he arrived, its decision to release him on parole subject to conditions conferred a strong protected interest on him in remaining at liberty because the government essentially promised that he would remain

free so long as he complied with the conditions. He did comply with the conditions, so the deprivation of his liberty without a hearing where the government bore the burden of justifying his re-detention violates his due process rights under the Fifth Amendment.

9. Mr. Depelian therefore petitions the Court to issue a writ of habeas corpus ordering either his immediate release or that he be provided with a bond hearing within seven days at which the government will bear the burden of proving by clear and convincing evidence that his continued detention is justified and during which his ability to pay must be considered in fixing any bond amount.

Jurisdiction and Venue

10. The court has federal question subject matter jurisdiction over this petition because it arises under the laws of the United States. *See* 28 U.S.C. § 1331. Specifically, the Court has jurisdiction to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241(a), (c)(1)(, (3). *See also* U.S. Const. Art. I, § 9, Cl. 2. Mr. Depelian is in the custody of the United States government and pursuant to its authority, and his re-detention without the possibility of receiving a bond hearing violates his Fifth-Amendment due-process rights.
11. Venue is proper in the District of Colorado insofar as all the events giving rise to this action, which does not involve any real property, occurred in Colorado and Mr. Depelian is detained at the Denver Contract Detention Facility in Aurora, Colorado. *See* 28 U.S.C. § 1391(e)(1)(B), (C).

The Parties

12. Mr. Depelian is a 42-year-old native and citizen of Russia, though he is of Armenian ethnicity. He has experienced lifelong discrimination on account of his Armenian heritage and has been opposing the Russian government for nearly a decade. He came to

the United States to seek a life free from persecution. He is currently detained at the ICE Denver Contract Detention Facility.

13. On information and belief, Juan Baltazar is the warden of the ICE Denver Contract Detention Facility, which is run by the Geo Group. He oversees the facility where Mr. Depelian is physically confined. He is sued solely in his official capacity.

14. On information and belief, Robert Hagan is the director of the Denver Field Office of United States Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). He oversees ICE's work in Colorado and Wyoming to detain and, as necessary, remove noncitizens suspected of violating the Immigration Laws. He is sued solely in his official capacity.

15. Kristi Noem is Secretary of Homeland Security. She is one of the several cabinet officials charged with the overall administration and enforcement of the immigration laws. She bears overall responsibility for DHS's detention policies nationwide. ICE is a component of the Department of Homeland Security and therefore falls under her authority. She is sued solely in her official capacity.

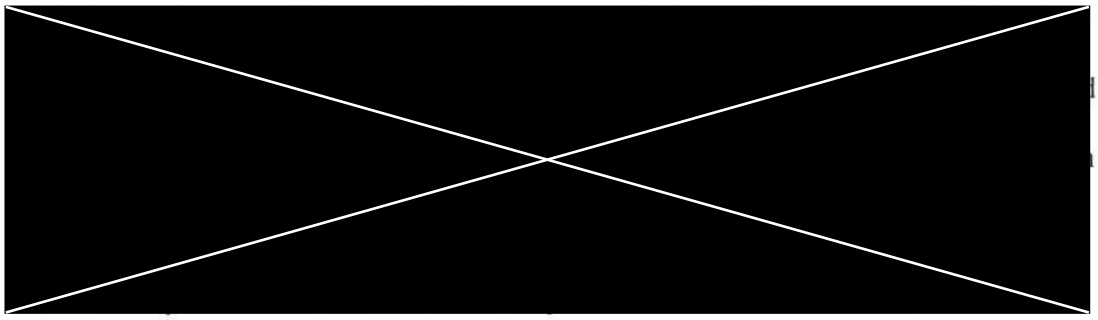
16. Pamela Jo Bondi is Attorney General of the United States. The Executive Office for Immigration Review (EOIR), which operates the United States immigration courts and the Board of Immigration Appeals (BIA), is part of the Department of Justice (DOJ) and thus falls under her control. She is sued solely in her official capacity.

Factual and Legal Background

17. Mr. Depelian is a 42-year-old native and citizen of Russia. He is married to Oksana Depelian, and they have two children: Kristina (age 18) and A[redacted] (age 12). See Exhs. F

and G. He, Oksana, and A[redacted] are all in the United States. Kristina was also in the United States for a time but left for Armenia earlier this year.

18. Mr. Depelian is of Armenian ethnicity and has been mistreated all his life because of his



objections.

19. On October 18, 2022, Mr. Depelian presented himself at the San Ysidro, CA, port of entry. Because he did not have a document permitting him to enter and permanently reside in the United States, DHS immediately detained him. On October 19, DHS issued a Notice to Appear (NTA)—the document that initiates removal proceedings under INA § 240, 8 U.S.C. § 1229a—that designated him as an "arriving alien." *See* Exh. A.

20. In December 2022, ICE decided to release Mr. Depelian. *See* Exhs. B and C. In the notification he received, DHS indicated that he was being released under a policy that favored granting parole to arriving aliens who have been found by an asylum officer to have a credible fear of persecution or torture, who have established their identity, and who pose neither a flight risk nor a danger to the community. *See* Exh. B.

21. But Mr. Depelian never spoke to an asylum officer or any other officer who would determine whether he had a credible fear of persecution or torture in Russia. The credible-fear process follows the issuance of an order of expedited removal—an order requiring a noncitizen's removal without a hearing before an immigration judge—and is

triggered when the noncitizen expresses a fear of returning to his or her home country. *See* INA § 235(a)(1), 8 U.S.C. § 1225(a)(1). DHS did not issue such an order against Mr. Depelian. Rather, it placed him in full removal proceedings before an immigration judge without his needing to go through the credible-fear process.

22. ICE's grant of parole to Mr. Depelian was subject to two conditions. *See* Exh. B. First, he had to pay a bond of $5,000. He did so. Second, he was enrolled in ISAP as an alternative to detention. During the following two and a half years, he was very careful to comply with all the program's requirements.

23. Mr. Depelian worked and lived in several states. He nonetheless attended all his immigration hearings.

24. When his then x-wife and their two children came to the United States in 2023 (the family's separation had done nothing to lessen their harassment by the Russian government), they settled in Colorado. *See* Exh. H. Mr. Depelian and his wife remarried on May 1, 2024. *See* Exh. F.

25. From December 2023 to August 2025, Mr. Depelian was living with his family at [redacted] Lone Tree, Co 80124.

26. Mr. Depelian has been steadily employed over the past two years, donated to support Ukraine's defense, and has impressed his neighbors, employers, and coworkers as an honest, hard-working, and generous man who cares deeply for his family. *See* Exhs. I–M, O–X

27. To the best of Mr. Depelian's recollection, he received a call from ISAP on August 28, 2025, informing him that he needed to come in immediately to have the phone application used to monitor him updated. He told the caller that he had a doctor's

appointment and asked to be allowed to come in later. His request was refused, so he went to the office. No sooner had he arrived than, without any explanation, he was handcuffed and taken into ICE's custody. He has been detained at the ICE Denver Contract Detention Facility ever since. He notes that ICE informed the Court that he was detained on August 29, 2025. *See* Exh. D.

28. On November 10, 2025, an immigration judge of the Aurora Immigration Court conducted a hearing on the merits of Mr. Depelian's applications for protection. The immigration judge has not issued a decision in the case, so it remains pending, and no hearing date is currently set. *See* Exh. E. And even when the Immigration Judge does issue a decision, both parties will have the right to appeal it. Without action from the Court, then, his detention has the potential to last for several months at least.

29. Which statute authorizes Mr. Depelian's detention is a question likely to be in dispute between Mr. Depelian and the government.

30. Mr. Depelian maintains that his second detention is governed by INA § 236(a), 8 U.S.C. § 1226(a), which authorizes the detention of noncitizens pending a decision on whether they are to be removed from the United States. But though INA § 236(a)(2) does allow for release on bond, the DOJ's regulations dictate that immigration judges do not have jurisdiction to consider requests for bond by arriving noncitizens such as Mr. Depelian. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B).

31. The government is likely to argue that the BIA's recent decisions in *Q. Li*, 29 I. & N. Dec. 66 (B.I.A. 2025) and *Yajure-Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025) indicate that he is detained under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2). But as Mr. Depelian

will now explain, this interpretation departs from decades of settled law and practice and is incorrect.

32. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

33. First, INA § 236, 8 U.S.C. § 1226, authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. Individuals detained under subsection (a) of this statute are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Noncitizens who have been arrested, charged with, or convicted of certain crimes, meanwhile, are subject to mandatory detention, *see* INA § 236(c), 8 U.S.C. § 1226(c).

34. Second, the INA prescribes mandatory detention for noncitizens subject to expedited removal under INA § 235(b)(1), 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission, who are covered in § 1225(b)(2).

35. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* INA § 241(a)(b), 8 U.S.C. § 1231(a),(b).

36. As Mr. Depelian has already mentioned, this case concerns the interplay between the detention provisions at INA § 235(b)(2), 8 U.S.C. § 1225(b)(2) and INA § 236(a), 8 U.S.C. § 1226(a).

37. Both provisions were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. INA § 236(a), 8 U.S.C. § 1226(a) was

most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

38. Shortly after the IIRIRA's enactment, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under INA § 235, 8 U.S.C. § 1225, and that they were instead detained under INA § 236, 8 U.S.C. § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

39. In the decades that followed, most people who entered without inspection and were placed in standard removal proceedings thus received bond hearings unless their criminal history rendered them ineligible pursuant to INA § 236(c), 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an immigration judge or other hearing officer. *See* INA § 242(a), 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

40. Arriving noncitizens have been deemed ineligible for bond even though INA § 236, 8 U.S.C. § 1226, contains no such exception. But when arrested within the territory of the United States, they were still considered to be detained under INA § 236, 8 U.S.C. § 1226.

41. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice.

42. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to the mandatory detention provision in INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, or even decades.

43. The BIA's decision in *Yajure Hurtado*, published on September 5, 2025, adopts this novel interpretation of the detention provisions.

44. Courts across the country have almost uniformly rejected ICE's new policy and the BIA's reasoning in *Yajure Hurtado*.

45. Even before these nationwide policies came into existence, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. The United States District Court for the Western District of Washington found that such a reading of the INA is likely unlawful and that INA § 236(a), 8 U.S.C. § 1226(a), not INA § 235(b), 8 U.S.C. § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

46. Since then, courts across the country have followed suit, finding that this new reading of the statutes is untenable. *See. E.g., Arauz v. Baltazar*, No. 1:25-cv-3260-CNS, 2025 WL 3041840, at *2 (D. Colo. Oct 31, 2025) (collecting cases from the District of Colorado and other districts).

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[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

47. DHS's and EOIR's new interpretation is contrary to the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that INA § 236(a), 8 U.S.C. § 1226(a), not INA § 235(b), 8 U.S.C. § 1225(b), applies to people like Mr. Depelian.

48. INA § 236(a), 8 U.S.C. § 1226(a) applies by default to all persons "pending a decision on whether [they are] to be removed from the United States." These removal hearings are held under INA § 240, 8 U.S.C. § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

49. The text of INA § 236, 8 U.S.C. § 1226, also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* INA § 236(c)(1)(E), 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, they are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010).

50. INA § 236, 8 U.S.C. § 1226, then, leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

51. By contrast, INA § 235(b), 8 U.S.C. § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. INA § 235(b)(2)(A), 8 U.S.C.

§ 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

52. In sum, the mandatory-detention provision at INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), does not apply to Mr. Depelian since he was allowed to reside in the interior of the United States for over two years.

53. Moreover, courts throughout the United States have found that re-detaining a previously released noncitizen without a pre-deprivation hearing constitutes a violation of that noncitizens' due-process rights. *See, e.g., Lopez-Arevelo v. Ripa*, No. EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Garro Pinchi v. Noem*, 792 F. Supp. 3d 1025 (N.D. Cal. 2025).

54. As the *Garro* Pinchi court explained, once the government releases people from custody, it has implicitly promised them that their liberty will be revoked only if they violate some condition of their release. *Garro Pinchi*, 792 F. Supp. 3d at 1032. This implied promise creates a strong protected interest in liberty of which the government cannot deprive people without a hearing before a neutral decisionmaker.

55. Mr. Depelian's family has been struggling to make ends meet without him, *See* Exh. N. His son, Artem, who was already traumatized by the family's flight from Russia, is now experiencing additional health problems because of his father's absence. And Mr. Depelian has never had any encounters with the police in the United States.

Statement of Claims

COUNT ONE — VIOLATION OF THE INA

56. Mr. Depelian incorporates by reference paragraphs 1 through 55 as if fully set forth herein.

57. The mandatory detention provision at INA § 235(b)(2), 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country, were released, and have been residing here for years. Such noncitizens are detained under INA § 236(a), 8 U.S.C. § 1226(a), unless they are subject to INA § 235(b)(1), 8 U.S.C. § 1225(b)(1), INA § 236(c), 8 U.S.C. § 1226(c), or INA § 241, 8 U.S.C. § 1231.

58. The application of INA § 235(b)(2) to Mr. Depelian unlawfully mandates his continued detention and violates the INA.

COUNT TWO — VIOLATION OF MS. CARAGICA'S DUE-PROCESS RIGHTS UNDER THE FIFTH AMENDMENT

59. Mr. Depelian incorporates by reference paragraphs 1 through 55 as if fully set forth herein.

60. The Fifth Amendment to the United States Constitution provides that "No person shall . . . be deprived of . . . liberty . . . without due process of law." As the Supreme Court has stated, "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due-Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

61. Mr. Depelian has a strong interest in being free from confinement. There is no reason to believe that he poses a danger to the community. And his residence in the United States for over two and a half years while attending all required hearings and appointments demonstrates that he does not pose a flight risk.
62. DHS previously released Mr. Depelian on parole subject to conditions. In doing so, it implicitly promised him that he would remain at liberty unless he violated a condition of his release. He is unaware of any condition that he has violated, and his re-detention without a hearing before a neutral decisionmaker where the government bears the burden of proving that this re-detention is justified unconstitutionally deprives him of his protected liberty interest.

Prayer for Relief

Wherefore, Mr. Depelian respectfully prays the Court to grant the following relief:

A. Assume jurisdiction over this matter;
B. Issue a writ of habeas corpus ordering that the government either immediately release Mr. Depelian or provide him with a bond hearing at which the government will bear the burden of proving by clear and convincing evidence that his continued detention is justified and during which his ability to pay will be considered in fixing the amount of any bond;
C. Award him reasonable attorney's fees and costs;

and

D. Grant such further relief as the Court deems just and proper.

Respectfully submitted this 25th day of November 2025,

s/ Henry D. Hollithron

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